

ENTERED

August 08, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISIONCHRISTINA MELINDER, *et al*,

Plaintiffs,

VS.

TD AMERITRADE, INC.,

Defendant.

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CIVIL ACTION NO. 4:15-CV-00179

OPINION AND ORDER

Pending before the Court is Defendant TD Ameritrade, Inc.'s ("TD") motion to stay and compel arbitration. Doc. 9. The motion should be moot because, on January 21, 2016, an agreed motion to dismiss TD with prejudice (Doc. 26) was granted. The order dismissing TD, the sole defendant in the case at the time, was signed January 21, 2016, and there is a note on the docket sheet reflecting TD was terminated as a defendant in the case. The case should have been closed at that time, but it was not.


Between the time of the filing of the motion to stay and compel arbitration, April 1, 2015, and the dismissal of TD with prejudice, January 21, 2016, a series of motions were filed. On October 1, 2015, Plaintiffs had filed a first amended complaint adding as a defendant Wolters Kluwer CCH, Inc. Doc 21. On October 5, 2015 Plaintiffs filed an agreed motion for extension of time to amend pleadings and an opposed motion to join a new party. Doc 23. On October 6, 2015 the Court struck the amended complaint (Doc. 21) because it was filed without permission of the Court. Doc. 24. On October 26, 2015 TD filed its response to the Plaintiffs' motion to join a new party. Doc. 25. The next instrument on the docket was Doc. 26, the agreed motion to dismiss TD with prejudice.

For reasons that are unclear, on July 15, 2016 the opposed motion for joinder (Doc. 23)

was referred to Magistrate Judge Frances H. Stacy for a ruling. Doc 28. On July 18, 2016 the motion was granted (Doc. 30), and Plaintiffs' filed an amended complaint on July 18, 2016. Doc. 31. The amended complaint was the identical document that Plaintiffs had filed October 1, 2015, naming both TD and Wolters Kluwer CCH, Inc. Because this amended complaint is obviously a mistake, given the history of this case, it is hereby

ORDERED that within ten (10) days of the date of the entry of this order, Plaintiffs shall file an amended complaint deleting TD Ameritrade, Inc. as a party in this case. Failure to do so may result in the dismissal of this case.

SIGNED at Houston, Texas, this 5th day of August, 2016.

A handwritten signature in black ink, appearing to read "Melinda Harmon", is written over a horizontal line.

MELINDA HARMON
UNITED STATES DISTRICT JUDGE